IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 23151 of 2005(F)

PETITIONER:

P.S. SATHYAMMA, D/O.LATE V.C. SAHADEVAN,
PATHIYIL VEEDU, POONTHOPPU WARD,
ALAPPUZHA-688 006.

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS:

1. **STATE OF KERALA REPRESENTED BY THE SECRETARY, GENERAL ADMINISTRATION (FFP.B) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE DISTRICT COLLECTOR, ALAPPUZHA.**

BY GOVERNMENT PLEADER SRI. V.T.K.MOHANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.23151/2005 F

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE COMMUNICATION NO.K.DIS.6993/99/H4 DTD. 25/2/1999 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

EXT.P2: **COPY OF THE PKC ISSUED BY SRI.H.K.CHAKRAPANI DTD. 25/10/2002.**

EXT.P3: **COPY OF THE LETTER N O.63179/FFP.B3/01/GAD DTD. 13/02/2003 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**

EXT.P4: **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT DTD. 22/03/2004.**

EXT.P5: **COPY OF THE CERTIFICATE ISSUED BY THE TAHSILDAR, AMBALAPUZHA DTD. 3/2/2004.**

EXT.P6: **COPY OF THE PKC ISSUED BY SRI. H.K.CHAKRAPANI DTD. 21/03/2004.**

EXT.P7: **COPY OF THE ORDER OR SANCTION OF SSS PENSION ISSUED BY THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS VIDE NO.119/PVS/104/99-FF (SZ) DTD. 18/06/2003.**

EXT.P8: **COPY OF THE TRUE EXTRACT OF THE CONVICT REGISTER OF CENTRAL PRISON, TRIVANDRUM ISSUED BY THE SUPDT. IN RESPECT OF THE CERTIFIER SRI. H.K.CHAKRAPANI.**

EXT.P9: **COPY OF THE MINUTES OF THE MEETING OF THE DISTRICT ADVISORY COMMITTEE HELD ON 7/03/2001.**

EXT.P10: **COPY OF THE LETTER NO.63819/FFP.B3/05/GAD DTD. 30/10/2006 ISSUED BY THE 1ST RESPONDENT.**

/TRUE COPY/

P.A.TO JUDGE

KSS

T.R.RAMACHANDRAN NAIR, J.

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W.P.(C).No. 23151 of 2005 (F)

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Dated this the 26th day of July, 2007

J U D G M E N T

The issue in this writ petition relates to the claim for Kerala Freedom Fighters' Pension raised by the petitioner, who is the daughter of late Sri.V.C.Sahadevan. Late V.C.Sahadevan was a prominent freedom fighter, who passed away on 14/11/1149 ME. He was an active participant in the Punnapra-Vayalar Movement as well as other movements in connection with the freedom struggle. Pursuant to an arrest warrant issued against him by the Special Magistrate Court, Alappuzha, in connection with case No.P.E.7/1122 ME, he had gone underground for ten months from 07/03/1122 ME to 06/01/1123 ME. It is averred by the petitioner that her mother had submitted an application to the second respondent on 29/07/1981, which was rejected on flimsy grounds. Her mother also expired on 23/06/1996. Therefore, the petitioner submitted an application for grant of pension on 27/01/1999. The petitioner initially received a letter dated 25/02/1999 from the second respondent directing her to produce official records, jail

records or certificate from prominent freedom fighters in the form prescribed. Thereafter, she produced the Personal Knowledge Certificate issued by a prominent freedom fighter Sri H.K.Chakrapani, who had undergone imprisonment for more than five years in the Central Prison, Thiruvananthapuram, on account of his participation in the Punnapra-Vayalar struggle. Ext.P2 is the true copy of the said certificate. Apparently, that was not acted upon for the reason that Sri H.K.Chakrapani had not received the Central Pension. This was communicated to the petitioner, as per Ext.P3. One another reason stated in Ext.P3 is that she had not produced the legal heir certificate etc..

2. Thereafter, she had filed a further representation Ext.P4 along with Exts.P5 and P6, which are the legal heir certificate and the Personal Knowledge Certificate. The petitioner has also produced Ext.P7 order of sanction of Swatantrata Sainik Samman Pension to the certifier Sri.Chakrapani. Ext.P8 is the true extract of the convict register relating to him.

3. It is in the above circumstances she has filed this writ petition since the Government has not been taking any action in the matter.

4. In the counter affidavit filed by the first respondent the stand taken is that in view of Circular No.57183/FFP-B1/93/GAD, dated 31/12/1993, such an application can be considered only on production of documentary evidence such as warrant of arrest, court/jail records clearly showing the applicant's sufferings in connection with the freedom struggle. It is worth to be mentioned here that when the object of the scheme is to sanction pension to eligible freedom fighters, such right cannot be curtailed by a provision of a circular and strict insistence of production of jail records cannot be made so as to reject such genuine claims. In a similar case, in W.P.C.No.26694/2003, wherein also the jail records and sanction of Central Pension to Sri Kittan Chakrapani were produced, this Court directed the Government to reconsider the claim of the petitioner therein after considering the above certificates. It is further reported that pursuant to the said direction, Government has sanctioned pension to the petitioner therein.

5. In the light of the above position, the stand taken in the counter affidavit that the petitioner is not eligible for pension cannot be said to be correct. The petitioner has produced as Ext.P9, the recommendation of the District Advisory Committee, wherein, in their meeting held on 07/03/2001, it has been clearly stated that she is the daughter of the late freedom fighter, Sri.V.C.Sahadevan. She is unmarried, is a physically handicapped person and an asthma patient and her parents are no more. The committee had unanimously recommended her case for sanction of pension.

6. Since the petitioner has now produced Exts.P6 to P8, the objection that was raised in Ext.P3 order does not survive. Therefore, it is a case where the petitioner has clearly established her claim for sanction of pension. Therefore, the first respondent, the State, will have to consider the above materials along with the recommendation of the District Advisory Committee and pass orders accordingly.

Hence, there will be a direction to the first respondent to consider the case of the petitioner for sanction of pension under the scheme in the light of the certificates, that is, Exts.P6, P7 and P8 and, Ext.P9 recommendation of the District Advisory Committee and pass orders thereon and disburse the amount accordingly. The needful shall be done within a period of two months from the date of receipt of a copy of this judgment. The writ petition is disposed of accordingly.

T.R.RAMACHANDRAN NAIR,
Judge

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